

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

BRENT ELI MORRIS,

Petitioner,

vs.

GREG SMITH, *et al.*,

Respondents.

Case No. 3:15-cv-00277-RCJ-WGC

ORDER

Petitioner filed a petition for a writ of habeas corpus and paid the filing fee. The court has reviewed the petition pursuant to Habeas Rule 4, and the petition shall be docketed and served.

A petition for federal habeas corpus should include all claims for relief of which petitioner is aware. If petitioner fails to include such a claim in his petition, he may be forever barred from seeking federal habeas relief upon that claim. *See* 28 U.S.C. §2254(b) (successive petitions). If petitioner is aware of any claim not included in his petition, he should notify the court of that as soon as possible, perhaps by means of a motion to amend his petition to add the claim.

IT THEREFORE IS ORDERED that the Clerk **ELECTRONICALLY SERVE** the petition (ECF #2) on the respondents.

IT FURTHER IS ORDERED that respondents shall file a response to the petition, including potentially by motion to dismiss, within **ninety (90) days** of service of the petition, with any requests for relief by petitioner by motion otherwise being subject to the normal briefing schedule under the local

1 rules. **Any response filed shall comply with the remaining provisions below, which are entered**
2 **pursuant to Habeas Rule 4.**

3 **IT FURTHER IS ORDERED** that any procedural defenses raised by respondents in this case
4 shall be raised together in a single consolidated motion to dismiss. In other words, the court does not
5 wish to address any procedural defenses raised herein either in *seriatum* fashion in multiple successive
6 motions to dismiss or embedded in the answer. Procedural defenses omitted from such motion to
7 dismiss will be subject to potential waiver. Respondents shall not file a response in this case that
8 consolidates their procedural defenses, if any, with their response on the merits, except pursuant to 28
9 U.S.C. § 2254(b)(2) as to any unexhausted claims clearly lacking merit. If respondents do seek
10 dismissal of unexhausted claims under § 2254(b)(2): (a) they shall do so within the single motion to
11 dismiss **not** in the answer; and (b) they shall specifically direct their argument to the standard for
12 dismissal under § 2254(b)(2) set forth in *Cassett v. Stewart*, 406 F.3d 614, 623-24 (9th Cir. 2005). In
13 short, no procedural defenses, including exhaustion, shall be included with the merits in an answer. All
14 procedural defenses, including exhaustion, instead must be raised by motion to dismiss.

15 **IT FURTHER IS ORDERED** that, in any answer filed on the merits, respondents shall
16 specifically cite to and address the applicable state court written decision and state court record
17 materials, if any, regarding each claim within the response as to that claim.

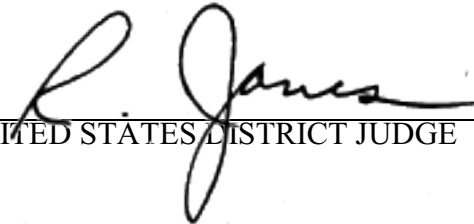
18 **IT FURTHER IS ORDERED** that petitioner shall have **thirty (30) days** from service of the
19 answer, motion to dismiss, or other response to file a reply or opposition, with any other requests for
20 relief by respondents by motion otherwise being subject to the normal briefing schedule under the local
21 rules.

22 **IT FURTHER IS ORDERED** that any additional state court record exhibits or other exhibits
23 filed herein by either petitioner or respondents shall be filed with a separate index of exhibits identifying
24 the exhibits by number. The CM/ECF attachments that are filed further shall be identified by the
25 number or numbers of the exhibits in the attachment.

26 **IT FURTHER IS ORDERED** that the parties **SHALL SEND** courtesy copies of all exhibits
27 to the **Reno** Division of this court. **While the Local Rules provide that parties should send paper**
28 **courtesy copies of filings over fifty pages, in this instance, courtesy copies may be in paper form**

1 **or as PDF documents saved to a CD—so long as each PDF is clearly identified by exhibit number.**
2 Courtesy copies shall be mailed to the Clerk of Court, 400 S. Virginia St., Reno, NV, 89501, and
3 directed to the attention of “Staff Attorney” on the outside of the mailing address label. Additionally,
4 in the future, all parties shall provide courtesy copies of any additional exhibits submitted to the court
5 in this case, in the manner described above.

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7 Dated this 11th day of June, 2015.

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9 UNITED STATES DISTRICT JUDGE
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